

## REFERENCE TERM

This Term of Reference, hereinafter referred to as TR, **has the objective to open a price register for the eventual hiring of a company specialized in the supply of railway tracks for the acquisition of 2,032.01 TONS of TR-57 Tracks** (nominal mass of 56.90 kg/m), new, manufactured and tested in accordance with ABNT NBR 7590:2012. The chemical composition, resistance limit and elongation must comply with the quality of Type 3A steel or higher, following the example of the specifications defined in the American AREMA standard.

<b>1 IDENTIFICATION OF THE NEED</b>	<b>3</b>
<b>2 DEFINITION OF THE OBJECT</b>	<b>3</b>
<b>3 JUSTIFICATION FOR HIRING</b>	<b>4</b>
<b>4 TECHNICAL SPECIFICATIONS OF THE OBJECT AND APPLICABLE STANDARDS</b>	<b>5</b>
<b>5 PRICE ESTIMATE</b>	<b>6</b>
<b>6 RESPONSIBILITIES OF THE PARTIES</b>	<b>7</b>
<b>7 PHYSICAL SUPPLY SCHEDULE</b>	<b>10</b>
<b>8 CONDITIONS FOR RECEIPT AND ACCEPTANCE OF THE OBJECT</b>	<b>11</b>
<b>9 PROPOSAL CHOICE CRITERIA</b>	<b>13</b>
<b>10 TECHNICAL QUALIFICATION</b>	<b>14</b>
<b>11 EXECUTION REGIME</b>	<b>14</b>
<b>12 CONSORTIA AND SUBCONTRACTING</b>	<b>14</b>
<b>13. CONTRACT PERFORMANCE GUARANTEE</b>	<b>15</b>
<b>14. CRITERIA FOR READJUSTMENT</b>	<b>18</b>
<b>15. CONTRACTUAL EXECUTION TERM AND TERM</b>	<b>18</b>
<b>16. MANAGEMENT AND SUPERVISION PROCEDURE</b>	<b>18</b>
<b>17. POSSIBILITY OF COOPERATIVE SOCIETY PARTICIPATION</b>	<b>19</b>
<b>18. PRICE REGISTRATION INTENTION</b>	<b>19</b>
<b>19. RISK MATRIX</b>	<b>19</b>
<b>20. SUSTAINABILITY CRITERIA AND PRACTICES</b>	<b>20</b>
<b>21. BUDGET FORECAST</b>	<b>20</b>
<b>22. GENERAL PROVISIONS</b>	<b>20</b>

## 1 IDENTIFICATION OF THE NEED

- 1.1. CBTU has executive projects for the recovery and modernization of its passenger train systems in Maceió, Natal, João Pessoa and Recife, which aim to transform them into structuring systems of a new transport plan for the respective urban regions, making them more efficient and taking advantage of their medium capacity transport potential. When recovering the system, replacing the tracks is essential to guarantee passenger safety and guarantee the durability of the rolling stock.
- 1.2. Having the tracks already available for use by the Recife Superintendence, that is, having the tracks purchased and delivered, is a crucial factor for contracting the recovery and expansion works, since the process of acquiring the tracks takes a long period of time. Acquiring the tracks after contracting works on the road will generate delays and shutdowns undesirable.

## 2 DEFINITION OF THE OBJECT

- 2.1. This Term of Reference, hereinafter referred to as TR, **has the objective to open a price register for the eventual hiring of a company specialized in the supply of railway tracks for the acquisition of 2,032.01 TONS of TR-57 Tracks** (nominal mass of 56.90 kg/m), new, manufactured and tested in accordance with ABNT NBR 7590:2012. The chemical composition, resistance limit and elongation must comply with the quality of Type 3A steel or higher, following the example of the specifications defined in the American AREMA standard.
  - 2.2. The object is intended for the Recife Urban Train systems of the Brazilian Urban Train Company –CBTU.
  - 2.3. According to item 10 of Preliminary Technical Study nº 005-2024/GAPRO/DT, and considering the nature of the intended contracting, the object can be characterized as **VERY COMMON**, in accordance with art. 113 of the RILC-CBTU, combined with art. 3rd, item II, of Decree No. 10,024/2019.
  - 2.4. The Price Registration System (SRP) will be adopted, in accordance with law No. 13,303, of June 30, 2016, and decrees that regulate the registration of prices in the direct, autonomous and foundational federal Public Administration. As well as the Internal Regulation of Tenders and Contracts of the Companhia Brasileira de Trens Urbanos (RILC/CBTU), in accordance with Art. 181 of the RILC/CBTU, as this contract falls under the following hypotheses: “I - when due to the characteristics of the good or service, there is a need for frequent hiring; II - when it is convenient to acquire goods with provision for delivery in installments or contracting services remunerated per unit of measure or on a task basis; and
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III – when it is convenient to acquire goods or contract services to serve more than one area or Administrative Unit of the CBTU. The validity period of the Price Registration Minutes will not exceed 12 months, including any extensions, in accordance with Art 189 of the RILC.

2.5. According to the Internal Regulations for Tenders and Contracts of the Companhia Brasileira de Trens Urbanos - RILC/CBTU, Art 189, “the validity period of the price registration minutes will not exceed 12 (twelve) months, including any extensions (...)”.

### **3 JUSTIFICATION OF HIRING**

- 3.1. Despite budgetary difficulties, actions continue to be carried out to keep the system in operation with a minimum level of security, but do not fully meet the actions necessary to recover the systems.
  - 3.2. Rails are prone to wear and tear over time. Carrying out constant maneuvers during the train's route generates high pressures on the curvilinear and rectilinear parts of the platform and several problems, including damage to the durability of the material.
  - 3.3. Wear is due to the mechanical action between the wheel and the rail, which may or may not have the same hardness. The speed with which wear occurs depends on the radius of the curves and the weight of the load carried by the vehicles. A variable called specific wear was also defined as the ratio between the consumed area of the rail head and the unit of gross mass circulated on it. The generally established limit for wear is 25% of the head's total area (cross section).
  - 3.4. Therefore, it is possible to point out the main factors that will directly influence the durability of the rails:
  - 3.5. Traffic intensity;
  - 3.6. Weight in tons/axle of the rolling stock;
  - 3.7. Geometry of the permanent way (curve radii, ramps and other geometry elements);
  - 3.8. Conditions for maintenance of the permanent way (state of tamping, unevenness, misalignment and frequency of maintenance).
  - 3.9. Specifically, on the CBTU railway lines, there are currently systems with tracks that were installed around 30 years ago and already show excessive wear and tear and are indicative of replacement, as instructed in the International Electronic Auction No. 004-2021/GALIC/AC/CBTU which dealt with the acquisition of tracks. It is also noted that the inadequate state of conservation of the permanent track and lack of maintenance of the tracks trigger consequences such as: reduction in the lifespan of the tracks, increased wear of the rolling stock, increased wear of the systems directly linked to the superstructure, reduced speed of rolling stock and a drop in operational production.
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- 3.10. According to PIM01-DNIT, the rail constitutes the main element of the permanent way structure and must fulfill the purposes in accordance with:
- 3.11. Directly resist the tensions received from the train and transmit them to the other elements that make up the track structure (rail fixings, support plate, sleeper, ballast and subballast);
- 3.12. Guide the wheels of railway vehicles in their movement;
- 3.13. Serve as a conductor of electrical current for signaling and traction on electrified lines.
- 3.14. This contract aims to acquire tracks that will be used in the maintenance of permanent ways, where existing tracks that are worn out will be replaced (as defined above). Part of the tracks will also be used to duplicate and expand some sections, aiming at operational efficiency and safety in railway traffic. It is also important to maintain a technical reserve of tracks in order to meet the preventive and corrective maintenance needs of permanent routes. The table below details the quantity and application in the superintendence.

THIS APPLICANT	TOTAL PESO (TONS)	JUSTIFICATIONS/APPLICATION
RECIFE	2.032,01 TON (35,712 km of tracks)	The need to acquire TR-57 tracks presented here aims to replace old tracks on the South and Center lines of CBTU Recife. On the lines mentioned, the curved tracks show wear greater than 25% of the head area, that is, above what is permitted. This leaves you with a risk of fragility in your section. The limit percentage for wear in the rail billet area for transporting passengers, according to standards and literature, is 25% of the head area. This limit has already been exceeded by 2,032.01 TON (35,712) Km of tracks.

- 3.15. To determine the 10% Technical Reserve, the expertise of the permanent track maintenance sector and the difficulty of acquiring rails quickly for possible emergency maintenance were considered, due to the fact that it is an imported product.
- 3.16. Maintaining tracks available for use in the respective Superintendencies, that is, having the tracks purchased and delivered, is a crucial factor for contracting recovery and expansion works, as the track acquisition process takes a long period of time. Acquiring tracks after contracting works on the road may cause delays and shutdowns undesirable.

#### 4 TECHNICAL SPECIFICATIONS OF THE OBJECT AND APPLICABLE STANDARDS

- 4.1. We will indicate below the Service Specifications and Instructions in order to guide the aforementioned supply, standardizing the proposals presented, thus allowing a more careful analysis of them.

#### 4.2. The Contractor must fully comply with the Specifications

Services Via Permanente – EMVP/16 of CBTU, Annex V of this Terms of Reference or obtained through the link: <https://www.cbtu.gov.br/index.php/pt/manutencao-metroferroviaria/especificacaomaterial>

The ABNT Standards and other international standards cited in EMVP/16 of the CBTU must also be observed;

The Safety Regulatory Standards – NRs – in force in Brazil and the Environmental legislation (Law 6,938/81) must be considered and complied with;

The contractor must check the Material Inspection Procedure – PIMs. PIM 01 – Rail for Railway Line available in <https://www.gov.br/dnit/pt-br/ferrovias/instrucoes-e-procedimentos/procedimentos-para-inspecao/pim-001-trilho-para-linha-ferrea.pdf>;

Furthermore, Law No. 13,303/2016 and the Internal Bidding and Contracting Regulations - RILC-CBTU must also be observed.

Link to RILC CBTU access:  
[https://www.cbtu.gov.br/images/gagov/geste/contratosgeris/rilc-cbtu\\_-\\_rev.03\\_-\\_jan-21\\_-\\_rpr\\_346-20.pdf](https://www.cbtu.gov.br/images/gagov/geste/contratosgeris/rilc-cbtu_-_rev.03_-_jan-21_-_rpr_346-20.pdf)

4.3. The rails will be supplied in 12 meter long bars. The rails must be free from defects or cracks of any kind, and must also be straight and of uniform section along their entire length.

4.4. The rails must be marked in accordance with ABNT NBR 7590:2012.

4.5. The rails must be provided with two circular holes in the dimensions indicated in EMVP/16 at both ends.

4.6. The rails must be handled with care so that they are not damaged during loading and unloading, whether for land transport (trailers) or sea transport (ships).

4.7. The tracks can only be shipped outside the country, after receipt of the CERTIFICATE OF APPROVAL and its due acceptance by CBTU.

4.8. All services and supply of materials must be carried out in accordance with Brazilian Technical Standards (ABNT), the requirements and Specifications and Service Instructions explained in this Terms of Reference.

## 5 PRICE ESTIMATE

5.1. The estimated total for the acquisition, considering the price in the SICRO reference table - Jan/2024, in the respective region, is presented in the table below:

TR57 rail in carbon steel - L = 12 m							
CBTU	Delivery's place	Amount	Unit	Unit price	Total (TRUNCATED 2)	Pricing reference	ref code

					houses, TCU recommendation )		
STU-REC	Recife	2032,01	Ton	R\$ 15.433,20	R\$ 31.360.416,73	sicro3 - 01-2024	M2202
	<b>SOMA</b>	<b>2032,01</b>		<b>SOMA</b>	<b>R\$ 31.360.416,73</b>		

## 6 RESPONSIBILITIES OF THE PARTIES

- A. The intended contract aims to meet the demand of the Recife Regional Superintendence, justified under the terms of the previous item, due to the natural wear and tear suffered by the tracks.
- B. In this context, it was determined by the CBTU Executive Board that the management of the Technical Directorate should assist the regional superintendence, with a view to ensuring speed and efficiency in shared hiring.
- C. Technical Area: Civil Engineering Technical Management – GEENG/GAESP/DT;
- D. Client Area: Permanent Way Operational Coordination – STU/REC;
- E. Requesting Area: General Program Management –GAPRO/DT;
- F. Supervisory Area (Responsible): Technical Directorate – DT

### 6.1 Employee's obligations

- 6.1.1. No changes may be made by the CONTRACTED PARTY to the terms and units adopted in this document, under the allegation of insufficient data or information regarding the supply and transportation services, loading and unloading of materials, stacking, as well as the conditions existing at the delivery locations. .
- 6.1.2. The CONTRACTED PARTY must comply with all obligations contained in the TR, its annexes and its proposal, assuming as its sole responsibility the risks and expenses arising from the good and perfect delivery of the object.
- 6.1.3. Deliver the object in perfect condition, according to the specifications, deadline and location contained in this TR, and in the proposal accepted by CBTU, accompanied by the respective invoice, which will contain information regarding: brand, manufacturer, model, origin, period of validity as well as warranty.
- 6.1.4. Be responsible for defects and damages resulting from the object, in accordance with articles 12, 13 and 17 to 27, of the Consumer Protection Code (Law No. 8,078, of 1990 and Art. 76 of Law 13,303, of 2016).

- 6.1.5. Replace, repair or correct, at your expense, within the period established in this TR or another agreed with the management and supervision of the Contract, the object with damages or defects.
  - 6.1.6. Communicate to the CONTRACTING PARTY, in writing, within a maximum period of 24 (twenty-four) hours, prior to the delivery date, the reasons that make it impossible to meet the expected deadline, proving the impossibility; as well as communicating via telephone (81) 3972-8972 and 3972-8919.
  - 6.1.7. During the supply of the object, maintain all qualification, proposal and qualification conditions in compatibility with the obligations assumed.
  - 6.1.8. Provide the object of this contract within the best quality standards, following the specifications contained in this TR and the regulations applied to the manufacture of the object of the Contractual Instrument.
  - 6.1.9. Respond to observations and complaints from the CONTRACTING PARTY's inspection, regarding the supply and execution of the object.
  - 6.1.10. Be responsible for complying with all Federal, State and Municipal laws and including regulations, standards, instructions and guidelines that are applicable to you and necessary for your operation as a company, in addition to obtaining all licenses, permits and authorizations related directly or indirectly to the contracted supply and the exercise of its activities in the jurisdictions where they take place.
  - 6.1.11. All Contract, Insurance (including exchange variation) expenses, Social Laws, INSS, and others that affect supply, equipment and personnel, will be the sole responsibility of the Contractor.
  - 6.1.12. It will be the Contractor's sole responsibility to compensate for any work accidents resulting from the performance of the contracted services, or any unforeseeable event. It will also be your responsibility for any destruction or damage, by third parties, of the services performed, until their definitive acceptance, as well as any compensation that may be owed to third parties for events arising from the contracted services, even if they occur on public roads. .
  - 6.1.13. The Contractor must bear the costs of hiring a Certification company, previously approved by the CBTU, which will act by supervising the entire service execution process from the beginning until the end of the work, having free access to any documentation relating to these services and the facilities from the manufacturer.
  - 6.1.14. Any errors/mistakes in the sizing of the proposal will be the sole responsibility of the CONTRACTED PARTY.
  - 6.1.15. CBTU will not be liable for any commitments made by the CONTRACTOR with third parties, even if linked to the execution of the purpose of this TR, as well as for any damage caused to third parties as a result of an act by the CONTRACTOR, its employees, agents or subordinates.
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6.1.16. During the entire execution of the Contract, the CONTRACTOR commits to fully observe the provisions set out in the Code of Ethics, the Code of Conduct and Integrity and the Related Party Transactions Policy, all prepared by CBTU;

6.1.17. For the purpose of complying with the aforementioned rule, the documents referred to in the previous item are available at the following electronic addresses, and the CONTRACTED PARTY is also entitled to formally request a copy of them from the Contract Manager.

Code of ethics:

<https://www.cbtu.gov.br/images/home/acbtu/codigodeeticacbtu190918.pdf>;

Code of Conduct and Integrity:

[https://www.cbtu.gov.br/images/gagov/codigo\\_de\\_conduta\\_e\\_integridade.pdf](https://www.cbtu.gov.br/images/gagov/codigo_de_conduta_e_integridade.pdf); It is

Related Party Transactions Policy:

[https://www.cbtu.gov.br/images/gagov/politica\\_de\\_transacoes\\_com\\_partes\\_relacionadas.pdf](https://www.cbtu.gov.br/images/gagov/politica_de_transacoes_com_partes_relacionadas.pdf).

6.1.18. The price proposal presented must include all fees, taxes and duties that must be part of the final price of the object of this Tender.

6.1.19. The contractor must observe the items relating to the contractor's obligations set out in the Notice.

## **6.2. Obligations of the CONTRACTING PARTY**

- 6.2.1. Exercise extensive supervision during supply, and the same or any agent authorized by it must have access to the CONTRACTED PARTY's facilities at any time.
  - 6.2.2. Supervise the execution of the contract as specified and notify the CONTRACTED PARTY of any irregularities found in the manufacture, transportation and delivery of the material.
  - 6.2.3. Promote, through its representative (FISCAL-CBTU and MANAGER-CBTU), the monitoring and inspection of the execution of this Contract, noting in its own record any flaws detected and communicating to the CONTRACTOR the occurrences and any facts that, at its discretion, require corrective measures by the CONTRACTOR;
  - 6.2.4. Request from the CONTRACTED PARTY and its agents, in a timely manner, all necessary measures for the smooth running of the services;
  - 6.2.5. Issue opinions on all Administration acts relating to the execution of the Contract and, in particular, on the application of sanctions, changes and renegotiations of the Contract;
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- 6.2.6. Communicate to the CONTRACTOR, in writing, about imperfections, flaws or irregularities found in the object supplied and/or in the services provided, so that they can be replaced and/or repaired and/or corrected.
- 6.2.7. Make payment to the CONTRACTED PARTY in the amount corresponding to the supply of the object of this contract, within the deadlines and forms established in this TR and its annexes.
- 6.2.8. Provide relevant information and clarifications that may be requested by the CONTRACTED PARTY's employees or their representatives.
- 6.2.9. Communicate, always in writing and in a timely manner, to the CONTRACTED PARTY, any instructions and/or procedures to be adopted in relation to the contracted object.
- 6.2.10. The CONTRACTING PARTY must timely communicate to the CONTRACTED PARTY any changes regarding the change of delivery address.
- 6.2.11. Apply to the CONTRACTOR the applicable contractual and legal penalties, through administrative procedure, ensuring contradictory and full defense.
- 6.2.12. The CONTRACTING PARTY must approve the Certification presented by the CONTRACTED PARTY.
- 6.2.13. Promote the archiving, among other documents, of projects, "as built", technical specifications, budgets, terms of receipt, contracts and amendments, technical inspection reports after receipt of the object of this contract.
- 6.2.14. Issue, after the end of the Contract, the respective Closing Term, as long as there are no physical and/or financial pending issues in the Contract, ensuring the correct signature by the contracting parties, in compliance with CBTU's internal rules.

## **7 PHYSICAL SUPPLY SCHEDULE**

- 7.1 The physical supply schedule relative This contract includes in the ANNEX of the present TR.

## **8 CONDITIONS FOR RECEIPT AND ACCEPTANCE OF THE OBJECT**

- 8.1. The CONTRACTED PARTY must, within 10 calendar days after signing the contract, present the Certifier who will work on verifying the tracks, which must be approved by the CBTU.
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- 8.2. They will be evaluated for approval by CBTU, a Certifier with international coverage, presenting, for this purpose, certificates that prove that the institution worked on certifying objects similar to the object of this contract, that is, certification of tests for supplying rails for metro rail use.
  - 8.3. After approval by CBTU, proof of hiring the chosen Certifier must be presented within 5 working days. CBTU will only issue the Execution Order after hiring the certifier.
  - 8.4. The Contractor must bear the costs of hiring a Certifying company, previously approved by the CBTU, which will monitor the entire service execution process from the beginning until the end of the work, having free access to any documentation relating to these services and the facilities from the manufacturer
  - 8.5. Once the Certifier has been chosen, it will present the results of the tests carried out for the first batch of trails for analysis and approval by the CBTU. If this batch is rejected, the contractor must provide the schedule for the execution of another batch, which must be agreed by the CBTU, for a new evaluation.
  - 8.6. Repeated refusal of the second batch will result in termination of the contract by CBTU.
  - 8.7. The tests of all rail manufacturing batches must be monitored by the Certifier. Reports must be presented in English and Portuguese. If a batch is rejected, the Contractor must submit another batch for testing to replace the rejected batch.
  - 8.8. Any errors/mistakes in the sizing of the proposal will be the sole responsibility of the CONTRACTED PARTY.
  - 8.9. The price proposal presented must include all fees, taxes and duties that must be part of the final price of the object of this Tender.
  - 8.10. The contractor must observe the items relating to the contractor's obligations set out in the Notice.
  - 8.11. The release for boarding of the tracks will take place after carrying out all checks, tests and counter-tests under the supervision of the Certifier and upon acceptance and release of boarding by CBTU supervision.
  - 8.12. The rails must be loaded and transported tied with metal identification plates so that they arrive at the delivery location in perfect condition. The Contractor may optionally suggest another type of packaging, as long as it explains in detail in its proposal the type of strapping or packaging to be used, so that it can be analyzed and, if applicable, approved by the CBTU.
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- 8.13. Responsibility for loading, unloading and stacking the material is the exclusive responsibility of the Contractor, and the person responsible for the CBTU warehouse is responsible for checking the quantities and verifying the existence of possible damages occurring during loading, transport and/or unloading.
- 8.14. In the event of damage to the material, it may be refused by the person responsible for receiving it, drawing up a Term of Non-Receipt of Material at the time, which will detail the quantity and reason for non-acceptance.
- 8.15. Final acceptance will only be carried out after all necessary repairs and corrections required by inspection, and upon CBTU issuing the Final Receipt Terms. There will be no provisional or partial receipt.
- 8.16. The previously approved quantities will be measured and paid, supplied and delivered to the locations indicated by the Inspectorate in each of the cities described in this Term, after attesting the quality and condition of the tracks delivered, and issuing the respective Final Receipt Term of the shipment.
- 8.17. Execution deadline: The material must be supplied in the period of 180 days from receipt of the Execution Order issued by CBTU.
- 8.18. Delivery location: The tracks must be delivered to the location determined by the Execution Order issued by CBTU. The delivery address is detailed below:

UNIT	ADDRESS
CBTU - PB - Recife	Rua Curumirim s/n, Pontezinha, Cabo de Santo Agostinho - PE. ZIP code: 54589-015

- 8.19. Time to receive the object: Delivery can be made between 8:30 am and 11:30 am and 1:30 pm and 4:00 pm, from Monday to Friday, except holidays. If the CONTRACTED PARTY is interested, prior contact may be made via telephone numbers (081) 3972-8972 and 3972-8919 to schedule delivery.

## 9 PROPOSAL CHOICE CRITERIA

- 9.1. The criteria for choosing the winning proposal will be **BIGGEST DISCOUNT**, as long as the proposal and its presentation meet all the requirements required by this TR and the Notice.
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- 9.2. The "largest discount" criterion must include and be the same for all items contained in the spreadsheet in ANNEX III.
- 9.3. The total value of the proposal must include all direct and indirect expenses necessary for the complete execution of the contracted supplies, in addition to expenses related to administrative support, offices, charges related to social and labor laws, insurance, fees, licenses and taxes of any nature, which affect or will affect the Contract or its object, essential for the perfect execution and full development of supplies, as well as the CONTRACTED PARTY's profit.
- 9.4. The proposal must be sent on the company's letterhead, containing the following information:
- a) Company name (Corporate Name);
  - b) Address;
  - c) CNPJ;
  - d) Telephone and/or email;
  - e) Proposal validity of at least 60 (sixty) days;
  - f) Payment terms within 30 (thirty) days after delivery of the invoice;
  - g) Shipping method (CIF);
  - h) Execution deadline according to the schedule;
  - i) Warranty period;
  - j) Including taxes;
  - k) Signature of the person responsible for preparing the proposal with CPF and ID;
  - l) Inclusion of bank details for payment.
- 9.5. The shipping method for the tracks must be CIF (Cost, Insurance and Freight), that is, the BIDDER is responsible for all costs and risks from collection at the Superintendence and its return after carrying out the service.
- 9.6. Proposal prices must be expressed in national currency (real) and be firm and non-adjustable, and must include the values of IPI, ICMS and other taxes that may affect the final price.
- 9.7. The BIDDER who is not located in the State of Pernambuco must observe the collection of the ADVANCE ICMS rate differential that applies to goods coming from other States (when applicable).

## **10 TECHNICAL QUALIFICATION**

- 10.1 The bidder must present one or more certificate(s) and/or declaration(s) of technical capacity on letterhead, signed by a person responsible at a level equivalent to Superintendent or Director or occupying a position with administrative powers (manager, head of department, division), issued in the name of the proposing company, public or private company, which proves its suitability for and relevant and compatible supply in characteristics, quantities and deadlines with the object of this contract.
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10.2 The certificate(s) must demonstrate, individually or together, the supply of rails (TR57, 3A quality, or similar), and quality equivalent to the STANDART standard established in the AREMA Standard for use in systems may be accepted. metro railways, in an amount equal to or greater than 10% of the total of the intended item contained in this Terms of Reference.

## **11 EXECUTION REGIME**

11.1 The contracting system will be for a unit price.

## **12 CONSORTIA AND SUBCONTRACTING**

12.1. Subcontracting of the main bidding object, which is the tracks, will not be permitted, as it involves the supply of goods.

12.2. Subcontracting will be permitted for ancillary services such as loading, unloading, maneuvering, stacking, etc.

12.3.

12.4. The formation of a consortium will be permitted.

12.5. Legal entities organized in a consortium must observe:

I - Proof of the public or private commitment to establish a consortium, subscribed by the consortium members;

II - Indication of the legal entity responsible for the consortium, which must meet the leadership conditions set out in the calling instrument; It is

III - Presentation of the documents required in the call instrument for each consortium member, admitting, for the purpose of technical qualification, the sum of the quantities of each consortium member.

IV - Proof of economic-financial qualification, through:

a) Presentation of the sum of the values of each consortium member, in proportion to their respective participation, with an increase of 30% (thirty percent) of the values required for individual BIDDER; It is

b) Demonstration, by each consortium member, of compliance with the accounting requirements defined in the call for proposals.

The documents listed in sub-items I and II below must include a joint and several liability clause between all consortium members:

I - In the commitment to establish a consortium to be signed by the BIDDERS; It is

II - In the contract to be signed by the winning consortium.

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The winning Consortium is obliged to promote, before signing the contract, the registration of the constitution commitment at the Titles and Documents Registry Office, in accordance with the law, in view of the provisions of item I of the previous subitem.

The replacement of a consortium member during the bidding process or after signing the contract must be expressly authorized in writing by the CBTU.

### **13. GUARANTEE CONTRACT EXECUTION**

13.1. The CONTRACTED PARTY will provide a guarantee corresponding to the percentage of 5% (five percent) of the total value of the contract, and may, under the terms of the first paragraph of art. 70, of Law No. 13,303/2016, choose the modalities listed below:

13.1.1. Cash deposit: must be deposited at Caixa Econômica Federal – CEF, in a specific form with monetary correction, in favor of CBTU, as instructed by the contract management;

13.1.2. Guarantee insurance: the insurance policy must be issued by an institution authorized by the Superintendence of Private Insurance – SUSEP, operating in the insurance market;

13.1.3. Bank guarantee: the Letter of Guarantee must be issued by a financial institution authorized by the Central Bank of Brazil – BACEN, operating in Brazil.

13.2. The CONTRACTED PARTY must present to CBTU proof of provision of the guarantee, within a maximum period of 10 (ten) business days, counting from the signing of the contract.

13.3. The CONTRACTED PARTY may request in writing, with due justification, before the end of the aforementioned period, the extension of the period for the presentation of the guarantee, for an equal period, for a single time, the approval of which will be at the discretion of the CBTU, upon the consent of the contract management.

13.4. The guarantee provided will ensure, **whatever the modality chosen, the payment of:**

13.4.1. Losses arising from non-compliance with the object of the contract and/or non-compliance with other obligations set out therein;

13.4.2. Losses caused to administration or third parties, resulting from fault or willful misconduct during the execution of the contract;

13.4.3. The fines and sanctions applied by CBTU to the hired party; and

13.4.4. Labor, tax and social security obligations of any nature not fulfilled by the CONTRACTOR.

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- 13.5. Guarantees in the form of guarantee insurance will not be accepted, the terms of which do not expressly include the events indicated in the previous item.
  - 13.6. In the event that the guarantee is consolidated through guarantee insurance or bank guarantee, these must be valid for at least 90 (ninety) days beyond the expiration of the contractual term, at which point the instrument will be returned to the CONTRACTOR after verification of the compliance with all contractual obligations and issuance of the Contract Termination Term.
  - 13.7. When the guarantee is consolidated through guarantee insurance, the CONTRACTED PARTY must prove full payment of the premium.
  - 13.8. The insurance policy must expressly provide for the insurer's liability for any and all fines of a sanctioning nature applied to the CONTRACTOR.
  - 13.9. The CBTU will offer a model Letter of Guarantee, which will contain the guarantor's express waiver of the benefit of the order provided for in art. 827, under the terms of item I, of art. 828, both of the Brazilian Civil Code.
  - 13.10. The rules set out in articles 835 to 839 of the Brazilian Civil Code also apply to the guarantee provided by bank guarantee.
  - 13.11. Failure to comply with the deadline set for presenting the guarantee will result in a fine of 0.07% (seven hundredths of a percent) of the contract value per day of delay, up to a maximum of 2% (two percent).
  - 13.12. Delays exceeding 30 (thirty) days authorize CBTU to terminate the contract, due to non-compliance or irregular compliance with the clauses of this contract, in accordance with art. 68, item VII, of Law No. 13,303/2016 and articles 239 and 240, I, of the RILC/CBTU.
  - 13.13. In the event of a change in the contractual value, extension of the term of validity, total or partial use of the guarantee by CBTU or, in other situations that imply loss or insufficiency of the guarantee, the CONTRACTED PARTY must provide the supplementation or replacement of the guarantee provided in the period determined by CBTU, observing the original conditions for acceptance of the guarantee stipulated in this Clause.
  - 13.14. The guarantor must expressly declare that they are fully aware of the terms of the notice and contractual clauses.
  - 13.15. The warranty will be considered void:
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- 13.16. With the return of the policy, letter of guarantee or authorization to withdraw the amount of money deposited as a guarantee, accompanied by a statement from the CBTU;
- 13.17. Within 90 (ninety) days after the end of the term, if the CBTU does not report the occurrence of accidents.
- 13.18. In both cases provided for in the previous sub-items, a Closing Term must be issued by CBTU, stating that the CONTRACTOR has complied with all clauses of the contract.
- 13.19. CBTU will not enforce the guarantee in the occurrence of one or more of the following hypotheses:
- 13.20. Act of God or force majeure;
- 13.21. Change, without prior knowledge of the insurer or guarantor;
- 13.22. Non-compliance with obligations by the CONTRACTOR arising from acts or facts carried out by CBTU;
- 13.23. Intentional illegal acts carried out by CBTU employees.
- 13.24. It will be up to the CBTU itself to determine the exemption from liability provided for in the subitems 13.4.1, 13.4.2, 13.4.3 and 13.4.4, with the guaranteeing entity not being a party to the process initiated by CBTU.
- 13.25. Guarantees that include exemptions from liability other than those provided for in item 13.13 will not be accepted. of this Clause.
- 13.26. Establishment of the warranty period for manufacturing the rails themselves; The CONTRACTED PARTY must maintain a guarantee against manufacturing defects for at least 5 years, counting from the delivery of the first batch to the CONTRACTING PARTY.

#### **14. CRITERIA FOR READJUSTMENT**

- 14.1. The contractor will be entitled to an adjustment, in the case of a proposal not presented in foreign currency, 12 months, counting from the date of presentation of the final awarded proposal.
- 14.2. The price proposals presented in national currency may be readjusted, as long as the annual periodicity is observed, applying the variation in the price index to the Broad Producer - Basic Metallurgical Transformation Industry, observing the following formula:

**$R = P_0 [ (I - I_0) / I_0 ]$  being:**

**R= Value of the adjustment sought;**

**$P_0$  = Measurement value to be readjusted;**

**I = Broad Producer Price Index – Basic Metallurgical Transformation Industry – 1006823, published in FGV's Conjuntura Econômica magazine, corresponding to the month of annual contract readjustment;**

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**$I_0$  = Broad Producer Price Index – Basic Metallurgical Transformation Industry – 1006823, published in FGV's Conjuntura Econômica magazine, corresponding to the month of the base date.**

**Base Date: deadline for submitting the proposal or last adjustment.**

- 14.3. In the case of a contract concluded in foreign currency, the adoption of the national adjustment index provided for in item 14.2 will not be applicable, since payment will be based on the value of the foreign currency in force on the business day immediately preceding the date of actual payment, under the terms of art. 23-A, § 4, of the RILC-CBTU; hypothesis in which the maintenance of the effective conditions of the proposal presented in the bidding will be guaranteed.
- 14.4. The adoption of the rule provided for in the previous item does not prevent the carrying out of a contractual review, aiming to reestablish the initial economic-financial balance of the contract, in accordance with art. 81, item VI, of Law No. 13,303/2016; as long as the legal requirements are effectively demonstrated by the party interested in the review.
- 14.5. The risk matrix defined in Annex IV is an integral part of this Terms of Reference and establishes the risks and responsibilities between the parties and characterizes the initial economic-financial balance of the party to.

## **15. CONTRACTUAL EXECUTION TERM AND TERM**

- 15.1. **Execution deadline:** The material must be supplied within 6 months from receipt of the AFM (Material Supply Authorization).
- 15.2. **The term of the contracts** will cover the stages of approval and final receipts as provided for in the RILC, totaling 9 months (detailed in the CTR physical schedule).

## **16. MANAGEMENT AND SUPERVISION PROCEDURE**

- 16.1. The Management and Supervision of the object of this Tender will be carried out by Manager and Inspector designated by the CONTRACTING PARTY who are responsible for monitoring, inspecting, checking and evaluating the execution, as well as resolving any doubts and pending issues, determining the regularization of failures through the CONTRACTED PARTY's representative, with broad powers to formally represent it regarding the object of the contract.
  - 16.2. The Contractor must inform CBTU in advance about the manufacturing process adopted and the characteristics of the steel in accordance with Items 1, 2 and 4 of this Term.
  - 16.3. Before the start of rolling services, the contractor must provide the production schedule.
  - 16.4. CBTU Inspection reserves the right to request the immediate removal of any member of the Contractor's team who, in its opinion, is hindering the smooth running of services.
  - 16.5. The Contractor must inform CBTU at least 30 days in advance of the scheduled start of production and the respective production schedule. The trails must be tested and certified by the Contractor, as described in Item 5 of EMVP 16/CBTU attached to this Term.
  - 16.6. The Contractor must bear the costs of hiring a Certifying company, previously approved by the CBTU, which will monitor the entire service execution process from the beginning until the end of the work, having free access to any documentation relating to these services and the facilities from the manufacturer.
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- 16.7. The Contractor will be responsible for providing all means for carrying out the inspection, by the agent appointed by the Contractor and previously approved by the CBTU. All expenses arising from laboratory trials and tests and others that CBTU deems necessary will be borne by the Contractor, at no cost to CBTU. An original copy in English and Portuguese of all test and counter-test verification results must be provided to the CBTU, also free of charge, in the form of a certificate.
- 16.8. CBTU Inspection reserves the right to request the immediate removal of any member of the Contractor's team who, in its opinion, is hindering the smooth running of the services.

**17. POSSIBILITY OF COOPERATIVE SOCIETY PARTICIPATION**

- 17.1. Due to the nature of the acquisition, the participation of a cooperative society will not be permitted.

**18. PRICE REGISTER INTENT**

- 18.1. Considering that there is no demand from the public administration that justifies the possibility of accepting the participation of other bodies in the launch of the Intention to Register Prices (IRP) as well as the possibility of subsequent adherence to the Price Registration System (SRP) and the respective ATA arising from this Process, the Bidding Process will not be allowed to purchase through the Price Registration System (SRP).

**19. RISK MATRIX**

- a. The risk matrix is the instrument that defines the responsibilities of the Contracting Party and the Contractor in executing the contract.
- b. The Contractor is fully and exclusively responsible for all risks related to the object of the adjustment, including, but not limited to, as established in the Risk Matrix - Annex IV.
- c. The Contractor is not responsible for the risks related to the adjustment object, for which the Contracting Party is responsible, as established in the Risk Matrix.
- d. Acts of God or force majeure that may be subject to insurance coverage offered in Brazil at the time of their occurrence or that are foreseen in the Risk Matrix are the responsibility of the Contractor;
- e. It is prohibited to enter into additional terms resulting from events allocated in the risk matrix as the responsibility of the Contractor.

**20. SUSTAINABILITY CRITERIA AND PRACTICES**

- 20.1. Throughout the execution of the entire process subject to this tender, all applicable legislation related to the environment and sustainability must be respected as follows:
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- > CONAMA Resolution No. 307/2002 - Establishes guidelines, criteria and procedures for the management of construction waste, including reduction, reuse, recycling and appropriate final disposal of this waste.
- > CONAMA Resolution nº 448/2012 - Provides criteria and guidelines for the environmental licensing of road, railway, waterway, port and air transport projects, including infrastructure and civil construction works associated with these projects.
- > ISO 14001:2015 - Environmental management systems - Requirements with guidance for use - Although not a specific standard for concrete, ISO 14001 establishes requirements for the implementation of an environmental management system, helping organizations to identify and control their impacts environmental issues, including those associated with concrete production.
- > Federal Law nº 6,938/81 - Provides for the National Environmental Policy. This law establishes principles and guidelines for the rational use of natural resources, the preservation and recovery of environmental quality, among other aspects.
- > Federal Law nº 9,605/98 - Environmental Crimes Law. This law defines environmental crimes and their penalties, including damage to permanent preservation areas, illegal deforestation, water pollution, among others.

20.2. The CONTRACTED PARTY must present the Federal Technical Register of Potentially Polluting Activities - CTF/APP, in full force, issued by the Brazilian Institute of the Environment and Renewable Natural Resources - IBAMA, in accordance with IBAMA Normative Instruction No. 13, of 23 /08/2021, amended by IBAMA Normative Instruction No. 6, of 01/27/2022.

20.3. During delivery to the CBTU warehouse, the CONTRACTOR must follow the recommendations of the Sustainability Committee of the unit designated to receive the material.

## **21. BUDGET FORECAST**

21.1. Considering Article 183 of the Internal Regulations for Bidding, Direct Contracting, Contracts and Agreements of the CBTU — RILC CBTU, as follows:

“Art. 183. When bidding to register the price, it is not necessary to indicate the budgetary allocation, which will only be required for the formalization of the contract or other appropriate instrument.”

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## **22. GENERAL PROVISIONS**

- 22.1. The CONTRACTED PARTY undertakes to maintain, throughout the execution of the Contract, all the qualification and qualification conditions required in the contracting process.
- 22.2. CBTU is responsible for the fidelity and legitimacy of the information provided and documents presented.
- 22.3. The intended contracting will be governed, in particular, by Law No. 13,303, of June 30, 2016 - Legal Statute of State Companies, by Decree No. 10,024, of September 20, 2019, as applicable; and by the Internal Regulations for Tenders, Direct Contracts, Contracts and Agreements of the Companhia Brasileira de Trens Urbanos CBTU, available at: [https://www.CBTU.gov.br/images/licitacoes/rilc\\_CBTU.pdf](https://www.CBTU.gov.br/images/licitacoes/rilc_CBTU.pdf).
- 22.4. In case of divergence or contradiction between the provisions contained in this TR and the relevant legislation, the current legal provisions will prevail; which may even give rise to the signing of additional terms.
- 22.5. The CONTRACTED PARTY undertakes for itself, its employees and representatives, to maintain the strictest confidentiality, in relation to the content of the CBTU procedures and standards, or any information it may receive, or become aware of, as a result of this contract.
- 22.6. Any omitted cases that may arise when performing the contracted services will be decided by the CBTU, in accordance with the provisions contained in Law No. 13,303/2016 and the RILC-CBTU, as well as the precepts of private law.
- 22.7. When calculating the deadlines established in this TR, the starting day will be excluded and the due date will be included. Deadlines only begin and expire on business days at CBTU.
- 22.8. Other formalities inherent to the provision of the object of this contract must be in accordance with the Contractual Instrument.

## **23 ATTACHMENTS**

The relevant and necessary annexes to the TR can be obtained through the link:

<https://drive.google.com/drive/folders/1WmcRZMWk1I0ROJ8YLfOAfo9bXxoL4zi3?usp=sharing>

Brasília, May 9, 2024.

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